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Attorney Docket No: 23239-301B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Ellington, *et al.*
SERIAL NUMBER: 09/666,870 EXAMINER: Jon D. Epperson, Ph.D.
FILING DATE: September 20, 2000 ART UNIT: 1639
FOR: METHOD AND APPARATUS FOR IDENTIFYING ALLOSTERICALLY REGULATED
RIBOZYMES

Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF PRIOR INVENTION UNDER 37 C.F.R. § 1.131

I, Andrew Ellington, hereby declare and state as follows:

1. In the January 29, 2003 Office Action (Paper No. 18) in the above-identified application, the Examiner cited, *inter alia*, the following publication: Marshall *et al.*, Nature Structural Biology, 6(11):992-94 (1999) ("Marshall"). This Declaration is to establish that the Marshall publication does not describe an invention that was known or used by others before invention by Applicants under 35 U.S.C. § 102(a).
2. The person making this Declaration is one of the inventors, Andrew Ellington.
3. The Marshall publication (attached) describes my own work (along with Dr. Marshall). I am one of the named authors of Marshall as well as an inventor of the instant patent application.
4. The inventions claimed in the above-identified application were invented by Dr. Robertson, Dr. Cox, Dr. Reidel, Dr. Davidson and myself, and the Marshall reference merely refers to that work.
5. The inventions claimed in the above-identified application were invented before the publication date of this printed publication. Accordingly, the Marshall reference is not prior art under 35 U.S.C. §§ 102(a) or 103.

6. As a person signing below, I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Andrew Ellington
Declarant's Signature
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5/2/2003
Date

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Attachment:
Marshall *et al.*, Nature Structural Biology, 6(11):992-94 (1999)